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| **New York Times v. Sullivan** |

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| **Case Type:** |  | Historical (1964). |
| **Exigence:** |  | In 1960 the New York Times publishes "Heed Their Rising Voices" a fund-raising advertisement for the civil rights movement. The ad contained several minor. Sullivan, one of three city Commissioners in Montgomery, Alabama, becomes aware of the ad. He sues the New York Times for libel, claiming that the ad in that he oversees the Montgomery police department which was mentioned in it. The jury grants him damages of half a million dollars; the New York Times appeals to the Supreme Court. |
| **Audience:** |  | The U.S. Supreme Court. |
| **Possible Constraints:** |  | Brennan writing for a unanimous Court argued that that the "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open" made the ad in question an instance of very valuable speech.  Was this value outweighed by the harm that falsities could cause, or the harm done to Sullivan's reputation? No: for the government should not be involved in judging truth; and government officials should be tough enough to take criticism.  This is the lesson of the Sedition Acts of 1798: in apparent recognition of the Act's unconstitutionality, all fines levied under it had been repaid and all those convicted pardoned.  Allowing libel lawsuits in cases like this one, further, would tend to "chill" future criticism of government officials, even legitimate criticism, for a "pall of fear and timidity" would fall over speakers, leading to "'self-censorship.'"  Therefore a "public official" may not recover "damages for a defamatory falsehood relating to his official conduct unless he proves that the statement was made with 'actual malice'--that is, with knowledge that it was false or with reckless disregard" of the truth.  This is, after all, the rule governing defamation lawsuits brought by *citizens* against *officials*; it's only fair to apply it when *officials* sue *citizens*.  Justice Black in a concurring opinion argued that the First Amendment absolutely protects criticism of the government, even speech published with actual malice. |
| **Decision:** |  | The judgment was reversed.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**New York Times v. Sullivan**

**NEW YORK TIMES V. SULLIVAN**

***Sticks and Stones***

The law of defamation deals with injury to a person's reputation and good name by false statements. One form, libel, is commonly associated with the printed word, though it can consist of statements made over other durable and widely disseminated mediums, such as television. In a libel action a person who has been defamed before a third party can sue the publisher of the statement for damages. The standard for libel claims was traditionally one of strict liability. If a person published a false statement, they were liable for damages even if they had not acted unreasonably, thus, it was easier to sue a person for libel than for most other wrongs. The justification was that great harm can result from the broadcast of false information about a person. Up to 1964 strict liability in the law of libel had been largely ignored by the U.S. Supreme Court. It was left to the states and their courts to deal with the question of what constituted libel and what standards of proof were required. But in that year the high court, pulled along by the rush of events in the civil rights movement, made changes which would have an enormous effect on the relationship between the press and public figures.

***A Controversial Advertisement***

The case that brought about this shift resulted from an advertisement placed by a civil rights group in the *New York Times* on 29 March 1960 under the headline "Heed Their Rising Voices." The ad described conditions of political and racial unrest in Alabama and listed several actions which police and state authorities had taken against demonstrators at the Alabama State College campus. The ad contained a number of inaccuracies. It made reference to the police ringing the campus in response to protests when they had in fact only been deployed nearby. It stated that padlocks had been used to keep students who had pro-tested out of the campus dining hall, when in fact no padlocks had been used. The only students excluded from the dining hall were those who had not registered for classes. The ad also said that Martin Luther King, Jr. had been arrested seven times, when he had actually only been arrested four times. It stated that police had assisted enemies of King in bombing his house, when in fact they had attempted to find the guilty parties. These and other inaccuracies formed the basis of a lawsuit by L. B. Sullivan, the Montgomery city commissioner who supervised the police department.

***Sullivan Goes to Court***

Sullivan claimed that he had been injured by the errors in the story. The major difficulty was that he had never been mentioned by name in the ad. But, Sullivan claimed, the references to the Montgomery police were sufficient to cause people to associate him with the abuses mentioned in the ad. The case was tried in an Alabama court in a racially charged atmosphere. The seating of spectators was segregated and the facts of the underlying civil rights controversy were on everyone's mind. The trial lasted three days. The court found that references to the police were sufficient to imply Sullivan's involvement and thus to injure his reputation. It also came to light that the *New York Times* had possessed information in its news files which contradicted some of the facts set forth in the ad. Under Alabama law, as under the libel law in most states at that time, once it was proven that the defendant had published a falsehood, it was liable for damages whether it had acted reasonably or not. The *New York Times* was found to be liable for five hundred thousand dollars in damages. This large award was an ominous sign, since the newspaper was facing a number of similar lawsuits based upon the same advertisement.

***A Vulnerable Case on Appeal***

The *New York Times* appealed. After the verdict was upheld by the Alabama Supreme Court, the case moved to the U.S. Supreme Court. In the past the high court had rarely reviewed libel cases. However, this case was different because of its relationship with the civil rights movement. A string of such verdicts could be used to silence papers such as the *New York Times,* which were important allies of civil rights activists. If this decision was allowed to stand on appeal, future publication of politically controversial articles or ads would be discouraged. Moreover, Sullivan did not have a particularly strong case. Few people actually associated him with the ad. And in the political climate of Alabama at that time, any such association was likely to enhance his reputation rather than harm it.

***A New Direction***

*New York Times* v. *Sullivan* became the vehicle for a major change in defamation law. The Supreme Court explicitly tied the limits of libel law to the guarantee of freedom of the press in the First Amendment. In an opinion written by Justice William J. Brennan, Jr. the Court imposed a heavy burden on public officials who sue for libel. These plaintiffs now had to prove not only that a falsehood had been printed, but also that the publisher knew the information was false or recklessly disregarded whether it was in fact the truth. Proof of negligence, as in ordinary damage suits, was not enough. The Court held the Constitution permits recovery of damages for libel by a public official against a private citizen only when there is evidence that the citizen published the false statements with "actual malice." Justice Brennan felt the now higher standard was fair, since existing rules required private citizens to prove actual malice when suing state officials for libel. Thus the fact that the *New York Times* published the advertisement without checking its accuracy against information in its own files was not sufficient evidence of actual malice. The reliance of the newspaper on the reputations of those individuals who vouched for the accuracy of the advertisement satisfied the Supreme Court that the newspaper had acted, at most, merely negligently.

***Conflicting Rights***

The decision marked a shift in priorities. The law was now willing to allow certain types of falsehoods to go unrectified in order to provide a margin of safety for the press. The Court's rationale was that the free exchange of ideas would be unduly restricted if papers were automatically liable every time inadvertent errors occurred. The Court noted that a certain amount of mistakes inevitably occur in free debate. It felt that the cost to our society if the press were constrained by fear of suits far outweighed the cost to those individuals whose reputations were tarnished. As with many constitutional issues, the decision was ultimately based on a balancing of conflicting rights. Some scholars have felt that the Court went too far. Others have felt that it did not go far enough. Whatever one's opinion, *New York Times* v. *Sullivan* stands as an enduring legacy of a single advertisement from the civil rights era.